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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,270	10/31/2003	Jacob Sharony	022.0143 (1553)	2040

29906 7590 07/27/2006

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EXAMINER

DEAN, RAYMOND S

ART UNIT PAPER NUMBER

2618

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/699,270	SHARONY, JACOB	
	Examiner	Art Unit	
	Raymond S. Dean	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 - 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 14, 2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 9, and 16 have been considered but are moot in view of the new ground(s) of rejection. Moreton further teaches contention free periods (CFP) in which the CSMA/CA mode, which comprises the DCF, is suspended (See Section 0075) thus there will be no reserving of a band prior to transmission and no sensing for communication activity on the band prior to transmission.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moreton et al. (US 2004/0013128) in view of Proctor (US 2003/0048770).

Regarding Claims 1,9, Moreton teaches a system for wireless communication utilizing a first wireless band and a second wireless band, comprising: a first wireless device including a first dual-band wireless transceiver and a antenna (Figure 3, Sections 0053, 0061, and 0062), the first device, using the antenna, transmitting payload data exclusively on the first band without having to reserve the first band prior to transmission and without sensing for communication activity on the first band prior to transmission (Section 0075, during the contention free periods (CFP) the CSMA/CA mode, which comprises the DCF, is suspended thus there will be no reserving of a band prior to transmission and no sensing for communication activity on the band prior to transmission); and at least one second wireless device including a second dual-band wireless transceiver, the second device acknowledging reception of the payload data using at least one of the first and second bands by omni-directionally transmitting acknowledgment data (Figure 2, Section 0057 lines 1 – 5, the 802.11 protocol comprises transmitting acknowledgements, the typical mobile devices in a WLAN have omni-directional antennas).

Moreton does not teach a smart antenna uni-directionally transmitting payload data on a first band.

Proctor teaches a smart antenna uni-directionally transmitting payload on a band (Figure 1, Sections 0007 lines 10 – 13, 0008 lines 6 – 9, the antenna apparatus transmits and receives signals).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the antenna apparatus of Proctor as an alternative to the antennas of Moreton for the purpose of alleviating multipath fading as taught by Proctor.

Regarding Claim 16, Moreton teaches a wireless device, comprising: a dual-band wireless transceiver capable of wirelessly transmitting using first and second wireless bands (Figure 3, Sections 0053, 0061, and 0062); and a antenna (Figure 3), wherein payload data is transmitted using the antenna on the first band without having to reserve the first band prior to the transmission of the payload data and without sensing for communication activity on the first band prior to transmission (Section 0075, during the contention free periods (CFP) the CSMA/CA mode, which comprises the DCF, is suspended thus there will be no reserving of a band prior to transmission and no sensing for communication activity on the band prior to transmission) and wherein the transceiver omni-directionally transmits further payload data on the second band having reserved the second band prior to transmitting the further payload data (Section 0084, the typical mobile devices in a WLAN have omni-directional antennas).

Moreton does not teach a smart antenna uni-directionally transmitting on the first band.

Proctor teaches a smart antenna uni-directionally transmitting on a band (Figure 1, Sections 0007 lines 10 – 13, 0008 lines 6 – 9, the antenna apparatus transmits and receives signals).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the antenna apparatus of Proctor as an alternative to the antennas of Moreton for the purpose of alleviating multipath fading as taught by Proctor.

Regarding Claims 2, 10, Moreton in view of Proctor teaches all of the claimed limitations recited in Claims 1, 9. Moreton further teaches wherein the second device omni-directionally transmits further payload data using only the second band (Figure 2, Section 0057 lines 1 – 5, the typical mobile devices in a WLAN have omni-directional antennas), the second device reserving the second band prior to transmission of the further payload data (Section 0084).

Regarding Claims 3, 11, 18, Moreton in view of Proctor teaches all of the claimed limitations recited in Claims 1, 9, 16. Moreton further wherein the first band is 5 GHz band and the second band is a 2.4 GHz band (Section 0053).

Regarding Claims 4, 12, 19, Moreton in view of Proctor teaches all of the claimed limitations recited in Claims 1, 9, 16. Proctor further teaches wherein prior to uni-directionally transmitting the payload data via the first band, the first device determining location of the second device (Section 0039 lines 10 – 13).

Regarding Claims 5, 13, Moreton in view of Proctor teaches all of the claimed limitations recited in Claims 1, 9. Moreton further teaches wherein the first device transmits data using the second band to the second device (Section 0088), the first

device reserving the second band prior to the transmission (Section 0084). Proctor further teaches omni-directionally transmitting data (Section 0008 lines 3 – 4).

Regarding Claims 6, 14, 20, Moreton in view of Proctor teaches all of the claimed limitations recited in Claims 2, 9, 19. Moreton further teaches transmission of the payload data from the first device to the second device via the first band and transmission of the further payload data from the second device to the first device via the second band are simultaneous (Section 0053).

Regarding Claims 7, 15, 21, Moreton in view of Proctor teaches all of the claimed limitations recited in Claims 6, 14, 20. Proctor further teaches wherein coverage areas of the corresponding uni-directional and omni-directional transmissions are substantially similar (Section 0007 lines 1 – 4, the coverage of a typical adaptive antenna array can be adjusted such that the uni-directional coverage is substantially similar to the omni-directional coverage).

Regarding Claims 8, 17, Moreton in view of Proctor teaches all of the claimed limitations recited in Claims 1, 16. Moreton further teaches wherein the first device is an access point (Section 0053).

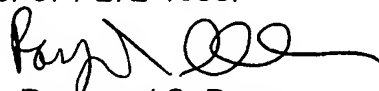
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond S. Dean whose telephone number is 571-272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

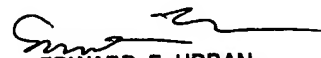
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Raymond S. Dean  
July 17, 2006



EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600